

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

ILLINOIS
COMMERCE COMMISSION

2006 DEC 18 1 A 10: 58

COMMONWEALTH EDISON COMPANY :
:
Proposal to implement a competitive :
procurement process by establishing :
Rider CPP, Rider PPO-MVM, Rider TS-CPP :
and revising Rider PPO-MI :

CHIEF CLERK'S OFFICE
No. 05-0159

**PETITION FOR LEAVE TO INTERVENE BY
FPL ENERGY POWER MARKETING, INC.**

FPL Energy Power Marketing, Inc. ("FPL Energy"), by its attorneys, and pursuant to 83 Ill. Admin. Code § 200.200, hereby petitions the Illinois Commerce Commission ("ICC" or "Commission") for leave to intervene in the above-captioned matter. FPL Energy was a prevailing bidder at the recently concluded power procurement auction approved by the ICC in these proceedings, and seeks leave to intervene in order to defend its material interest as a power supplier against potential adverse action, including but not limited to the Emergency Motion to Stay Implementation of 2007 Tariffs (the "Motion to Stay") brought by the People of the State of Illinois (the "People"). In support of its Petition, FPL Energy states:

1. The petitioner herein is FPL Energy Power Marketing, Inc., P.O. Box 14000, Juno Beach, Florida 33408-0420, (561) 691-7171. FPL Energy is represented in this matter by Francis A. Citera and Gregory E. Ostfeld, Greenberg Traurig, LLP, 77 West Wacker Drive, Suite 3000, Chicago, Illinois 60601, (312) 456-8400, Facsimile (312) 456-8435, Email citeraf@gtlaw.com, ostfeldg@gtlaw.com.

2. FPL Energy was a prevailing bidder at the first power procurement auction to supply electricity to Commonwealth Edison Company ("ComEd"), held from September 5, 2006 to September 8, 2006. The Commission approved the results of the

auction on September 14, 2006, and the Auction Manager issued a Declaration of a Successful Result on September 15, 2006. FPL Energy was awarded blocks of both ComEd CPP-B load and ComEd CPP-A load, both for terms of seventeen months, starting January 1, 2007 and ending May 31, 2008. FPL Energy and ComEd have entered into a Supplier Forward Contract ("SFC") setting forth FPL Energy's obligation to supply, and ComEd's obligation to purchase, the blocks that FPL Energy was awarded through the power procurement auction.

3. As a prevailing bidder at auction with a vested contractual interest in its SFC with ComEd, FPL Energy has a material financial interest in the outcome of these proceedings. In their Motion to Stay, the People request that the ICC stay ComEd's tariffs for electric service in 2007 and prevent those tariffs from going into effect on January 2, 2007. The ICC approved the 2007 tariffs by Order dated January 24, 2006. The 2007 tariffs are set at an appropriate level to enable ComEd to recover the costs that it is paying for electricity to wholesale suppliers who prevailed at the power procurement auction, including FPL Energy. Thus, if the ICC grants the stay requested by the People, ComEd would be unable to recover its costs for the electricity that it has committed to buy from FPL Energy under the SFC, thereby having the likely effect of depriving FPL Energy of its vested right to sell electricity to ComEd in the quantities and prices set by the power procurement auction. Such an outcome could also give rise to legal claims, rights, and remedies on the part of FPL Energy, resulting from the deprivation of its contractual and property interest in the sale of electricity to ComEd.

3. FPL Energy's interest in these proceedings is sufficient to merit granting leave to intervene. As a prevailing bidder in the power procurement auction, FPL Energy

has a direct material interest in the outcome of these proceedings. At present, FPL Energy has an enforceable contractual right under its SFC with ComEd to supply a specified quantity of electricity to ComEd at a specified price. An adverse ruling by this Commission, however, could have a material adverse impact on FPL Energy's financial interests, as it may stay or otherwise disrupt the contractual right of FPL Energy to supply electricity to ComEd.

4. FPL Energy agrees to accept service by electronic means through its counsel as provided for in 83 Ill. Admin. Code § 200.1050.


WHEREFORE, for the foregoing reasons, FPL Energy Power Marketing, Inc. respectfully requests that the ICC enter an Order (1) granting FPL Energy Power Marketing, Inc. leave to intervene in these proceedings; (2) in the interim, while this Petition is pending, granting FPL Energy Power Marketing, Inc. leave to participate in this proceeding in accordance with 83 Ill. Admin. Code § 200.200(b); and (3) granting such other and further relief as the ICC deems appropriate. A proposed Order is attached.

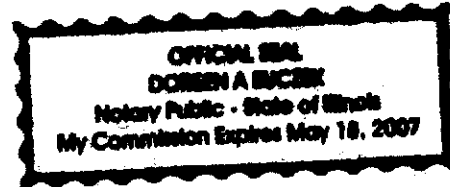
Dated: December 15, 2006

FPL ENERGY POWER
MARKETING, INC.

By: 
One of Its Attorneys

SUBSCRIBED AND SWORN TO BEFORE ME
this 15th day of December, 2006.

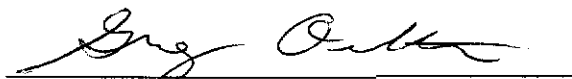

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on December 15, 2006, he caused the **PETITION FOR LEAVE TO INTERVENE BY FPL ENERGY POWER MARKETING, INC.** to be served on the parties to this proceeding listed in the accompanying Service List, by depositing the same in the United States mail, with first class postage prepaid.

A handwritten signature in cursive script, appearing to read "Greg Ostfeld", is written over a horizontal line.

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